

Senate Study Bill 1115 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

A BILL FOR

1 An Act relating to the child abuse registry administered by the
2 department of human services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.68, subsection 2, paragraph d, Code
2 2011, is amended to read as follows:

3 *d.* The failure on the part of a person responsible for the
4 care of a child to provide for the adequate food, shelter,
5 clothing, supervision, or other care necessary for the child's
6 health and welfare when financially able to do so or when
7 offered financial or other reasonable means to do so. A parent
8 or guardian legitimately practicing religious beliefs who does
9 not provide specified medical treatment for a child for that
10 reason alone shall not be considered abusing the child, however
11 this provision shall not preclude a court from ordering that
12 medical service be provided to the child where the child's
13 health requires it.

14 Sec. 2. Section 232.71D, subsections 2 and 3, Code 2011, are
15 amended to read as follows:

16 2. ~~If Except as otherwise provided in subsections 3 and 3A,~~
17 ~~if the alleged child abuse meets the definition of child abuse~~
18 ~~under section 232.68, subsection 2, paragraph "a" or "d", and~~
19 ~~the department determines the injury or risk of harm to the~~
20 ~~child was minor and isolated and is unlikely to reoccur, the~~
21 ~~names of the child and the alleged perpetrator of the alleged~~
22 ~~child abuse and any other child abuse information shall ~~not~~~~
23 ~~be placed in the central registry as a case of founded child~~
24 ~~abuse.~~

25 3. a. Unless any of the circumstances listed in paragraph
26 "b" are applicable, cases to which any of the following
27 circumstances apply shall not be placed on the central
28 registry:

29 (1) A finding of physical abuse in which the department
30 has determined the injury resulting from the abuse was minor,
31 isolated, and unlikely to reoccur.

32 (2) A finding of abuse by failure to provide proper
33 supervision or by failure to provide adequate clothing, in
34 which the department has determined the risk from the abuse
35 to the child's health and welfare was minor, isolated, and

1 unlikely to reoccur.

2 ~~b. Except as otherwise provided in section 232.68,~~
3 ~~subsection 2, paragraph "d", regarding parents legitimately~~
4 ~~practicing religious beliefs, If any of the following~~
5 ~~circumstances apply in addition to those listed in paragraph~~
6 ~~"a", the names of the child and the alleged perpetrator of~~
7 ~~the alleged child abuse and the report data and disposition~~
8 ~~data any other child abuse information shall be placed in the~~
9 ~~central registry as a case of founded child abuse under any of~~
10 ~~the following circumstances:~~

11 ~~a. (1) The case was referred for juvenile or criminal~~
12 ~~court action as a result of the acts or omissions of the~~
13 ~~alleged perpetrator or a criminal or juvenile court action~~
14 ~~was initiated by the county attorney or juvenile court within~~
15 ~~twelve months of the date of the department's report concerning~~
16 ~~the case, in which the alleged perpetrator was convicted of a~~
17 ~~crime involving the child or there was a delinquency or child~~
18 ~~in need of assistance adjudication.~~

19 ~~b. The department determines the acts or omissions of~~
20 ~~the alleged perpetrator meet the definition of child abuse~~
21 ~~under section 232.68, subsection 2, paragraph "a", involving~~
22 ~~nonaccidental physical injury suffered by the child and the~~
23 ~~injury was not minor or was not isolated or is likely to~~
24 ~~reoccur.~~

25 ~~c. (2) The department determines the acts or omissions~~
26 ~~of the alleged perpetrator meet the definition of child~~
27 ~~abuse and the department has previously determined within~~
28 ~~the eighteen-month period preceding the issuance of the~~
29 ~~department's report that the acts or omissions of the alleged~~
30 ~~perpetrator in a prior case met the definition of child abuse.~~

31 ~~d. The department determines the acts or omissions of the~~
32 ~~alleged perpetrator meet the definition of child abuse under~~
33 ~~section 232.68, subsection 2, paragraph "b", involving mental~~
34 ~~injury.~~

35 ~~e. The department determines the acts or omissions meet~~

1 ~~the definition of child abuse under section 232.68, subsection~~
2 ~~2, paragraph "c", and the alleged perpetrator of the acts or~~
3 ~~omissions is age fourteen or older. However, the juvenile~~
4 ~~court may order the removal from the central registry of the~~
5 ~~name of an alleged perpetrator placed in the registry pursuant~~
6 ~~to this paragraph who is age fourteen through seventeen upon a~~
7 ~~finding of good cause. The name of an alleged perpetrator who~~
8 ~~is less than age fourteen shall not be placed in the central~~
9 ~~registry pursuant to this paragraph.~~

10 ~~f. The department determines the acts or omissions of the~~
11 ~~alleged perpetrator meet the definition of child abuse under~~
12 ~~section 232.68, subsection 2, paragraph "d", involving failure~~
13 ~~to provide care necessary for the child's health and welfare,~~
14 ~~and any injury to the child or risk to the child's health and~~
15 ~~welfare was not minor or was not isolated or is likely to~~
16 ~~reoccur, in any of the following ways:~~

17 ~~(1) Failure to provide adequate food and nutrition.~~

18 ~~(2) Failure to provide adequate shelter.~~

19 ~~(3) Failure to provide adequate health care.~~

20 ~~(4) Failure to provide adequate mental health care.~~

21 ~~(5) Gross failure to meet emotional needs.~~

22 ~~(6) Failure to respond to an infant's life-threatening~~
23 ~~condition.~~

24 ~~g. The department determines the acts or omissions of~~
25 ~~the alleged perpetrator meet the definition of child abuse~~
26 ~~under section 232.68, subsection 2, paragraph "e", involving~~
27 ~~prostitution.~~

28 ~~h. The department determines the acts or omissions of the~~
29 ~~alleged perpetrator meet the definition of child abuse under~~
30 ~~section 232.68, subsection 2, paragraph "f", involving the~~
31 ~~presence of an illegal drug.~~

32 ~~i. (3) The department determines the alleged perpetrator of~~
33 ~~the child abuse will continue to pose a danger to the child who~~
34 ~~is the subject of the report of child abuse or to another child~~
35 ~~with whom the alleged perpetrator may come into contact.~~

1 considered abusing the child, however, this exemption does not
2 preclude a court from ordering that medical service be provided
3 to the child where the child's health requires it. Although
4 the religious belief exemption is not affected by the bill, an
5 internal reference to it in Code section 232.71D is deleted.

6 Code section 232.71D, providing criteria for whether or not
7 founded child abuse information is placed on the central child
8 abuse registry, is amended. Current law provides a specific
9 list of abuses for which there is no discretion and must be
10 placed on the registry and describes two types of abuse that
11 are not placed on the registry if certain determinations are
12 made: nonaccidental physical injury or injury at variance
13 with the history of it and the denial of critical care. For
14 those two types of abuse, in order not to be placed on the
15 registry, the department must determine that the injury or risk
16 of harm was minor, isolated, and is unlikely to reoccur.

17 The bill removes from Code section 232.71D most of the
18 specific provisions requiring registry placement and instead
19 provides a specific list of four exemptions that if any of
20 the circumstances described in the exemptions are applicable,
21 the case of founded child abuse is not placed on the central
22 registry. The first exemption listed is similar to the
23 exemption in current law: a finding of physical abuse in which
24 the department has determined the injury was minor, isolated,
25 and unlikely to reoccur. The second exemption narrows the
26 denial of critical care exemption in current law to now only
27 apply to failure to provide adequate supervision or failure to
28 provide adequate clothing, and the department must determine
29 that the risk to the child's health and welfare was minor,
30 isolated, and unlikely to reoccur. Under the bill, abuse
31 resulting from other forms of denial of critical care would
32 no longer be exempted from placement on the registry. These
33 two exception clauses do not apply if one of the following
34 circumstances is also applicable: referral of the case for
35 criminal or juvenile court action, the same perpetrator was

1 previously determined to have committed child abuse in a prior
2 case that occurred within the preceding 18-month period, or the
3 department determines the alleged perpetrator will continue
4 to pose a danger to the child involved with this case or to
5 another child.

6 The third exemption is sexual abuse when the alleged
7 perpetrator of the abuse is age 13 or younger. The fourth
8 exemption is sexual abuse when the alleged perpetrator is
9 age 14 through 17 and the court has determined there is good
10 cause for removing the name of the alleged perpetrator from
11 the registry. In such cases only the name of the alleged
12 perpetrator will be withheld or removed from the registry.

13 Subsection 3 of Code section 235A.18, relating to sealing
14 and expungement of founded child abuse information from the
15 registry, is stricken. The subsection requires the department
16 to review cases of child abuse placed in the registry before
17 the original effective date of Code section 232.71D of July
18 1, 1997. The review is required when the department is
19 considering the information while performing a record check
20 evaluation under law or administrative rule and when a review
21 is indicated under a procedure for performing reviews adopted
22 by the department.